

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DARRIN MAY, INDIVIDUALLY AND
d/b/a RICHARDSON LEARNING CENTER,

Plaintiff

VS.

AMERICAN SOUTHERN HOME
INSURANCE COMPANY AND SCOTT
CAMERON MARKEY,

Defendants

[illegible]

Civil Action No. 3:17-CV-3035

NOTICE OF REMOVAL BY DEFENDANT

Defendant, American Southern Home Insurance Company (“ASHIC”) desires to exercise its right under the provisions of Title 28 U.S.C. § 1441, *et seq.*, to remove this action from the 193rd Judicial District Court of Dallas County, Texas, in which said cause is now pending under Cause No. DC-17-11258; *Darrin May, Individually and d/b/a Richardson Learning Center v. American Southern Home Insurance Company and Scott Cameron Markey*. In support of its request to remove this action, Lexington states as follows:

1. This action is removable because (i) there is complete diversity of citizenship between the plaintiff and defendants, and (ii) the damages alleged are in excess of \$75,000.00. Accordingly, this matter is within the original jurisdiction conferred on this Court pursuant to 28 U.S.C. § 1332.

2. On August 31, 2017, Plaintiff filed an action styled Cause No. DC-17-11258; *Darrin May, Individually and d/b/a Richardson Learning Center v. American Southern Home Insurance Company and Scott Cameron Markey*; in the 193rd Judicial District Court of Dallas County, Texas.

3. The Petition was served on American Southern Home Insurance Company (“American Southern”) through its counsel of record by agreement, with service effective on October 13, 2017. This Notice of Removal is filed timely under 28 U.S.C. § 1446(b).

4. The Petition names two defendants. The first named defendant American Southern Home Insurance Company. American Southern is incorporated in the state of Florida, with its principal place of business in Amelia, Ohio. Thus, pursuant to 28 U.S.C. § 1332(c)(1), American Southern is a citizen of the states of Florida and Ohio.

5. The second named defendant is the individual, Scott Cameron Markey. Mr. Markey is a citizen of the State of Colorado, residing in Colorado Springs, Colorado.

7. The plaintiff is Darrin May is a citizen of the State of Texas because he is an individual domiciled in the state.

8. Generally, the amount in controversy in a given action is determined from the complaint itself, unless it appears that the amount stated in the complaint is not claimed in good faith. *See Horton v. Liberty Mutual Insurance Co.*, 367 U.S. 348, 353 (1961). It is the sufficiency of jurisdictional facts supporting removal *at the time the case is removed* that are key to the analysis. *Gebbia v. WalMart Stores, Inc.*, 233 F.3d 880, 883 (5th Cir. 2000).

9. In this case, Plaintiff specifically alleges that he “seeks monetary relief over \$200,000.” Therefore it is facially apparent from the Petition that the claims are more than \$75,000. As such, federal diversity jurisdiction exists. Defendant is entitled to remove this case pursuant to 28 U.S.C. §§ 1332 and 1441.

10. This action should be removed to this Court pursuant to 28 U.S.C. § 1441 inasmuch as there is complete diversity of citizenship between the plaintiff and defendants, and the judgment value of damages sought by plaintiff is in excess of the jurisdictional limit.

11. Pursuant to LR 81.1 of the Northern District of Texas, Defendant is filing with this Notice of Removal the following:

- (1) A completed civil cover sheet and supplemental civil cover sheet;
- (2) An index of all documents that clearly identifies each document and indicates the date the document was filed in state court;
- (3) A copy of the docket sheet in the state court action;
- (4) Each document filed in the state court action, tabbed and arranged in chronological order;
- (5) A separately signed certificate of interested persons.

12. Defendant has given or is in the process of giving notice of the filing of this Notice of Removal to the State Court and to the Plaintiff.

13. Defendant respectfully requests that this Court take jurisdiction in this civil action to its conclusion to the exclusion of any further proceedings in the State Court in accordance with federal law.

WHEREFORE, American Southern Home Insurance Company respectfully requests that this Court remove this action from the 193rd Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

/s/ *Tracy Jackson Cowart*
Tracy Jackson Cowart, Attorney-in-Charge
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ATTORNEY-IN-CHARGE FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Notice of Removal was served on the following counsel by certified mail, return receipt requested on the 2nd day of November, 2017, as follows:

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/s/ *Tracy Jackson Cowart*
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